



University of Hawaii at Manoa

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Office of the Director

RL:0318

Proposal 723 RELATING TO RESOURCES

Statement for
Con Con Committee on
Environment, Agriculture, Conservation and Land
Public Hearing August 14, 1978

by
Doak C. Cox, Environmental Center

Proposal 723 would amend Section 1 of Article X of the Constitution to add two new paragraphs relating to resources. This statement does not represent an institutional position of the University of Hawaii.

The first proposed new paragraph would recognize vested water rights, but would declare that the State has the controlling interest in and guardianship of freshwater resources. There seems to be no question that the State already has the regulatory power in question. Hence, the addition of this paragraph would have no practical effect.

The second paragraph would declare public ownership of geothermal resources and mineral resources associated with them. The question of the existence of private mineral rights in general and geothermal rights in particular is a matter of considerable present uncertainty. As in the case of water resources, a declaration of public ownership of all rights might be in conflict with federal and State Constitutional protection of private property. However, the status of geothermal rights differs from that of water rights in that there is no present geothermal development in Hawaii save a small development serving the Volcano House, whereas there have been very large private investments in and based on water development. Hence, a Constitutional declaration of the public ownership of all geothermal rights might have more effect than a declaration of public ownership of all water rights. The wisdom of such a declaration is not within the purview of the Environmental Center.



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